

MINUTES
KITTY HAWK TOWN COUNCIL
July 7, 2014
Kitty Hawk Town Hall, 6:00 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Presentations and Announcements
 - Fire Department Captains Bob Bent and Jeremy Smith
 - Ken Willson, Coastal Planning & Engineering – Storm Damage Reduction Update
5. Public Comment
 - 1.) Francis Gallagher – Beach Tents
6. Consent Agenda
 - a.) Approval of May 12, 2014 and June 2, 2014 Council Minutes
 - b.) Revenues and Expenses Report for May 2014
 - c.) Personnel Policy Updates
 - d.) Police Department Capital Expenditure
 - e.) Acceptance of Donation from Joe Lamb, Jr. & Associates
 - f.) Interlocal Agreement with Dare County for Hurricane/Disaster Debris Removal
 - g.) Emergency Facility Repair Bid
7. Items Removed from the Consent Agenda
8. Public Hearing
 - a.) Zoning Amendment: Application to rezone the property at 223 W. Tateway Road from Low Density Beach Residential (BR-1) to Medium Density Beach Residential (BR-2).
9. Return to Regular Session
10. Planning
 - a.) Call for Public Hearing. Text Amendment: Application to amend the Kitty Hawk Town Code with the addition of Section 42-528 establishing standards for the development of solar energy systems. A public hearing is requested to be scheduled for the August 4, 2014 Town Council meeting.
11. New Business
 - a.) Resolution for Consent to Assignment and Change of Control – The town was notified that Charter Communications will become CCO Transfers, LLC, a subsidiary of Comcast Corporation. This resolution consents to the agreement between Comcast and Charter which allows Comcast to be the new Franchisee for the Town of Kitty Hawk.
 - b.) Resolution authorizing the Town of Kitty Hawk to enter into a contract with the N.C. Department of Environment and Natural Resources regarding a Public Beach and Coastal Waterfront Access Grant for expansion of the Lillian Street Beach Access Parking Area.
 - c.) Waiver of Building Permit Fees for Damage Associated with Hurricane Arthur
12. Reports or General Comments from Town Manager
 - a.) Storm Damage Reduction Status Report
 - b.) Hurricane Arthur Damage Assessment and Storm Debris Pick Up
 - c.) Ocean Rescue Compliment

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13. Reports or General Comments from Town Attorney
14. Reports or General Comments from Town Council
 - a.) Thank You to Staff
 - b.) Update on the Overton Property – Mayor Perry
15. Public Comment
16. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Ervin Bateman, Councilman Craig Garriss, Councilwoman Emilie Klutz and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager John Stockton, Town Clerk Lynn Morris, Town Attorney Steve Michael, Finance Officer Charlene Allen, Management Assistant Melody Clopton, Town Planner Joe Heard, Police Chief Joel Johnson and Fire Chief Lowell Spivey

1. Call to Order

Mayor Perry called the meeting to order at 6 p.m. and said Hurricane Arthur turned out not to be too bad for Kitty Hawk. In addition to the public service sector being ready and willing to do anything that was needed the citizens also stepped up perhaps because of lessons learned from Hurricanes Sandy and Irene. The citizens parked their cars on high ground, stayed home and did everything to make it right. Everybody should be in good shape and the citizens deserve applause for doing the right thing.

2. Moment of Silence/Pledge of Allegiance

Following a moment of silence the Pledge of Allegiance was recited.

3. Approval of Agenda

Mayor Perry announced there is an addition for the agenda and it is 11(c) a request for fee waivers due to Hurricane Arthur.

Councilwoman Klutz made a motion to approve the agenda as amended. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.

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4. Presentations and Announcements:

- Fire Department Captains Bob Bent and Jeremy Smith

Chief Spivey recognized and introduced Bob Bent and Jeremy Smith. They were promoted to captain on July 1, 2014. After commenting on their many accomplishments and training, he said it has been a pleasure working with them and looks forward to continuing to work with them for many years to come.

- **Ken Willson, Coastal Planning & Engineering – Storm Damage Reduction Update**

Willson: *We submitted the Preliminary Overtopping Analysis (Attachment) and I will take some time to go over it in detail. We have also been working on a couple of preliminary design options. Before we jump into some of our modeling and design alternative analysis I want to brief council on where we are with a couple of different options and maybe get discussion and direction moving forward.*

We will discuss the Preliminary Overtopping Analysis first then I will go through the Preliminary Design Concepts a couple of designs that we can compare and contrast. Then I will show you a schedule update on the environmental documentation process, where we are with the engineering design and where we are with the off shore sand search investigation.

To kind of set the table we have worked on the feasibility study and we established the goals of the storm damage reduction project for the Town of Kitty Hawk. And as you may know we are working on projects for the Town of Duck and the Town of Kill Devil Hills also. All three projects are working together with the county to realize some cost savings in construction, permitting, the sand search and such, but one of the things that kind of sets Kitty Hawk apart are these goals. Number 3 states to reduce the vulnerability of homes within the town that front the Atlantic Ocean and are exposed to the wave events during nor'easters. You see those as basically protecting those oceanfront homes. Those are the primary goals for the Towns of Kill Devil Hills and Duck but in Kitty Hawk the primary goals are a little different. Number 1 on the list is to reduce the vulnerability of public infrastructure. The roads and the utilities are a higher value and just as vulnerable as a lot of the oceanfront houses. That is one of the main goals and as we have gone through the Preliminary Overtopping Analysis and really gotten a handle on the status of the dune line throughout the town and the frequency of the overwash events, Number 2 has kind of surfaced as really the primary goal. To try to reduce the flooding experience in many of the non-oceanfront areas throughout the town during ocean overwash conditions including portions of Highway 12 and US Highway 158 and obviously those neighborhoods in between those. So the Kitty Hawk project is a little bit different. We will get into it with the design concepts ... the number of structures that are kind of set out in front of those dunes makes coming up with a design a bit more challenging and we will go through that in pretty good detail.

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The Preliminary Overtopping Analysis. We have provided the final report and provided a draft report back in April or May. There was some discussion with staff and we made some revisions and resubmitted the report a couple of weeks ago. Basically the Preliminary Overtopping Analysis involved first looking at the LiDAR data which is basically laser airborne bathymetry or topography of the beach and the houses and the dune. We compared those multiple LiDAR data sets and really honed in on where the dune line is. Over time we were able to see how certain storms would lower the dune or in general some areas of the dune line were lower than others and we were able to get an idea of where those vulnerabilities were in the dune.

In February we came here and did a site visit with Public Works Director Willie Midgett. One of the things that was eye opening was we had identified a kind of permanent dune structure but the amount of variability with a lot of the pushing that occurs and how frequently that dune line changes ... like I said it was really eye opening to the design aspect of it. We are looking at a snap shot of once every couple of years in the LiDAR and it really does not do justice as to how variable and how much the dune is changing as people are pushing sand and storms are impacting the coast.

We did that site visit on February 21st and from that site visit we identified a number of different situations where the dunes were being lowered or overtopped and we basically came up with five recommendations that fit each one of these breaches that ... or each one of the low spots that we identified and I will go through each one of the five management or action alternatives in a little more detail.

*The first one we had was **uniform dune elevations**. There are many property owners that are pushing sand on a fairly regular basis and one of the things we saw was in some of the places where we are seeing overwash or overtopping of the dune were low spots where these dunes had been constructed. This is obviously a dune line that had been pushed up by those property owners but probably because of some the logistical challenges of getting sand in a house's staircase you have a non-uniform elevation of the dune. This is where we are seeing that overwash through the low spots. So the **first action alternative** was basically advising property owners that when they are doing these pushes try to make every attempt to construct some kind of a uniform elevation. We have started working on some overtopping analysis to look at different elevations, heights of the dunes, that you might want to construct to but if you cannot hit that particular elevation mark what you want to do is make sure you are building to a uniform elevation so we do not create a spot that is a low spot and is vulnerable to that overwash, overtopping.*

The other suggestion under this uniform dune elevation was adjacent property owners should try to coordinate, to ensure uniformities. As you are going down the beach you do not want to see where one guy has built his up pretty high and then the next one down. It creates another low spot and it is important to try to get some uniformity to that dune height.

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*The next action alternative we discussed in the report is **adding material or truck hauling**. Obviously there is a lot of beach scraping or beach pushing that is going on and after a storm that is kind of the easiest thing to do to create that temporary dune. But one of the things that we notice over time is when you are constantly pushing that sand from what we call the berm and pushing it up you are basically lowering the profile of that beach. If you think of two adjacent property owners, if this person is scraping, he is lowering his profile and building up his dune but basically you could end up with a slight variation where this person's beach is a little lower and over a couple of tidal cycles basically mother nature is going to flatten that out. What it is going to do is bring the guy that lowered his profile up and his adjacent property owner is going to bring that sand down a little bit. One beach scraping occurrence or two scraping occurrences probably are not going to see much of a noticeable difference but as that goes on over time multiple times a year it is possible you are creating a net loss of sand from some of those adjacent properties.*

A recommendation and obviously it is more expensive but anytime you have the opportunity to add material or truck material in, try to recommend, or promote that concept. Where to put the sand is going to be kind of a case by case determination. Some places have room to place sand in front of the structures and some places it may be advisable to place material under the structure in order to keep the dune line kind of uniform. Also the higher you can build that dune and the less amount of time a high tide cycle is chipping away at the base of that dune the longer the dune is likely to last. If you build the dune lower down on the profile every tidal cycle is going to start taking a little bit of the sand away. If you could place sand underneath a structure and try to bring this elevation up a bit it probably would have a little more longevity.

One of the other recommendations we had, along the lines of adding material is ... obviously it is expensive to bring it off island but potentially after a storm event where there is overtopping and NCDOT comes through and clears the roadway some of the sand that is cleared off the road could potentially be hauled onto individual properties. Hauled from the street side or the west side of the houses and moved around to either underneath the structures or in front of the structures.

*The next **action alternative** we had was **relocation of parking areas**. This is a really tough one and there are probably a limited number of structures this would really apply to. This is one of those structures where the structure is actually built very close to the road. There is very little parking on the west side of this structure and obviously there is no elevation underneath of the structure and the waterline is pretty close. The high water line is pretty close to the front of the structure. Again, the higher up you build that dune the longer that constructed dune might last. You can see the adjacent property has a little bit of a dune structure but once you get to this particular structure there is absolutely no sand underneath. Anytime the water comes up to the elevation of the road there is nothing stopping it from getting across. Are they able to build something underneath of this particular structure, maybe on the front side? Perhaps you would not be able to fit two cars in either one of these bays but maybe you could put one vehicle in the front. We understand that a lot of these houses are being rented and there might be a need for*

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three, four or five cars to be parked there and so obviously if there is a limit placed there is less of a reason to rent that particular property. Property owners would be hesitant to take up something like that so we have considered incentives. That could be a lot of things but anything to help the property owner make that particular property more competitive if there is a loss of some parking spaces. Perhaps there is some incentive that makes the rate on that house more attractive for someone to rent it.

Again, there are only a limited number of cases that this is going to apply. The Pelican's Perch house is one of those structures that it would apply to during the rental season. They do not want this dune built up. That is basically their driveway so they continue to knock it down and as traffic comes through there they are parking cars in the sandy area. This is a really tough one. Is there room here that you could construct a dune and in front of the dune you could potentially have one parking space and potentially across the road or some sort of sharing of another parking space. This is going to be on a case by case basis and we understand that anytime we are putting limits on any of the rental houses the property owners are going to be concerned.

Raising driveways and parking areas is a good example along the southern part of town. This house shown is clearly set seaward of the higher dune line, the more permanent dune line. The dune line is basically along Highway 12 and obviously there is a break in the dune line for access through the driveway to this particular house. One of the things we talked about in the report is potentially trying to construct driveways that would follow the contours of the dune. Obviously that would be a fairly involved project for this particular property owner. We suggested there may be locations where two adjacent property owners could potentially take on the project of having one access coming over the dune to access two different properties. Again we are trying to figure out ... we may not solve every one of these issues but we have a number of breaches or low spots in the dune line along the town and we are looking at this on a case by case basis and looking at the low hanging fruit first. Any reduction, or any closure of these gaps, is basically going to reduce the amount of flooding and overwash we are getting in any storm event.

This is an example of a driveway on Old Oregon Inlet Road in Nags Head. It is actually on the west side of the road but because this property is probably in a flood zone this property owner put in a bulkhead and then back filled and put a concrete pad over top of the area. They took some of the fill over here. If we were to do that here that is not going to help with overwash but the point was ... this was an example of where you could potentially raise the elevation of a driveway and potentially plug one of the gaps. Anything that is going to put a financial burden on property owners ... there is a possibility of looking at incentives and trying to make it a little more attractive given the fact that if they were to close that gap it is not just going to benefit one person it is going to benefit the residents on the other side of Highway 12 that is prone to flooding.

This is another example of raising driveways or parking areas. This is a parking area at Byrd Street. There are a couple of parking spots and this is also one of the emergency vehicle access

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points. In talking to the public works folks it seems when a storm is coming there is an attempt to try to make this dune a little bit more uniform but depending on how much advance time they have to get out there and how much sand there is in front sometimes that happens and sometime it doesn't. One of the possibilities would be raising the grade of this particular parking area to bring the whole thing up higher and that may reduce some of the overwash that occurs. This is the same parking lot looking west and as soon as the water comes over this low spot where the vehicle access point is it runs all the way down Byrd Street and can inundate the neighborhood back there.

Finally we had **modifications to public and emergency vehicle beach accesses**. I believe this is the access at Eckner Street. As you can see from this photo there is a permanent dune that is higher and as you get over into the access for emergency vehicle and pedestrian foot traffic it is much lower. One of the recommendations was installing some timber walkovers and putting in what they call Hatteras Ramps in the vehicle access areas in order to try to maintain those elevations a little bit higher. This is a picture of what those Hatteras Ramps look like in Carolina Beach. It is basically a series of either 2 x 4's or 4 x 4's that are strung together with a steel cable. It is basically a floating mat and is very easy to manipulate and move around. They can be constructed in widths and lengths to meet your needs and is another option for some of those areas. Basically it helps weather that dune a little better so the foot traffic or even vehicle traffic is not taking a toll and working the sand out of the system and we can maintain a little bit higher elevation in those areas.

Those were the results of the Preliminary Overtopping Analysis. At this point I want to move into the Preliminary Design Concepts (**Attachment**) and as I said going through that analysis really opened our eyes to the severity of some of the issues facing Kitty Hawk with a lot of the houses being out on the beach.

Once we get into the real design modeling and design analysis ... basically what we do and what we've done for the other projects is run a storm simulation. We take an existing profile like this and simulate a storm hitting the profile. It shows us what the profile would look like after the storm comes through. We are able to use different metrics to figure out whether or not a structure or a road or something like that would be impacted. Once we figure out what sort of impact there would be with no project then we can come in and design different beach fill designs that would mitigate that.

So we create a design, we hit it with that same storm and we look at the post storm profile to figure out whether or not that design would be enough to mitigate the impacts to whatever we are trying to protect. But to get to this design when the project is constructed basically it is going to look a little bit more like this sometimes. This would be the point where we are pushing the shoreline out. A lot of times when these projects are built ... if you visited Nags Head after that project was immediately constructed, it looks like the beach is 150 to 160' wider than it was at the beginning but the design is much smaller than that.

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To illustrate I have this slide that shows there are a couple of different wedges of this beach, this constructed beach fill. This frontal portion of the beach fill basically migrates off shore and helps to nourish the lower part of the beach profile down from the outside of the bar sometimes down to 20' of water where that material will naturally move off shore from the waves and nourish the off shore portion of the profile. We also have this additional outer wedge and that is what we call the advanced fill. We calculate what the erosion rate is in any given area and if we want that project to last about 5 years we are going to put 5 years of sacrificial sand in front of our beach fill design. That is supposed to provide the protection to whatever it is we are trying to protect and that sand is expected to be lost over the course of whatever the renourishment interval is. Here we have a loss of advance fill of 5 to 7 years. The idea is that after the 5 years you are left with the actual design that you set out to construct.

This design can have a number of different features. Some of them are berm only designs. This particular one has a dune. A lot of times when we talk about the dune we talk about the dune crest elevation and the width of the dune crest. We also talk about the berm, the berm elevation and the width of the design berm. This is a typical ... when we come to a project this is sort of typically what we are faced with, a beach that has been heavily eroded and we have structures, roads, utilities or something that the municipality is trying to avoid damage to behind the dune line.

In the case of Kitty Hawk we have many structures that are actually situated forward of the dune line at this point in time because of some of the erosion that has taken place. That presents its own set of challenges. This slide shows the difference in the amount of volume that it takes to construct a project in front of a structure like this that is sitting seaward of the dune versus constructing that same project ... basically we are looking at a 13' high dune crest. This dune crest is about 20' wide and then a berm at 6' and the berm is about 50' wide. If you are to build this design in front of this structure you would have to have all this volume of sand in place. If that structure was not there, this is the same exact design, you can tie in to a point that is closer to the dune and it takes much less volume to construct. One of the things we have been working on over the past couple of weeks is to try to come up with some apples to apples comparisons between building a hypothetical designed beach in front of those structures versus what it would look like if those structures did not exist. You could just tie in to the existing dune the way we have designed the projects for the Town of Duck and for the Town of Kill Devil Hills.

What we have are basically two alternatives that show just that. If we were to assume that those structures were not there or those structures were situated to the west side of the dune you could construct that hypothetical 13' high dune, 20' wide dune crest, 50' wide berm at a 6' elevation. You could construct that and put all of the advance fill in for about 81.3 cubic yards per linear foot of beach or a total of about 1.583 million cubic yards. This is pretty close to the number that we used as a planning number when we first looked at the feasibility report and that the county is using for their estimates of project costs. I think this is about 6% more than that original estimate but again these designs, because we have not gone through that storm simulation yet, they are somewhat arbitrary and really just being used for comparison purposes. When we look

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at building that same exact dune in front of basically what we call the structure line or a line drawn in front of the structures out on the beach you can see how that volume goes up. We go from 1.583 to almost 3 million cubic yards of sand. It is basically 92% more sand ... yes sir?

Perry: *For clarity, you are using the term in front of and just so everybody knows when you say in front of you mean to the east of the structure. Not to the west of the structure. People think in front of the house is the road and I want to make sure everybody understands when you say in front of it is seaward of that building.*

Willson: *That is correct. Thanks for that clarification. This is a comparison of these two exact beach designs tying in to a different point on the profile. One of the things we went through and did was try to see how much volume we could reduce and still maintain this design. Basically there are some areas along the town where the dune is in pretty good shape and there are no structures in front of that dune. There are some open spots in the southern central and southern portions of the town so we said in those particular areas maybe we could just build the berm in front of the existing dune.*

What we have here is, I color coded the different points in the profile, the red line is where the design starts, the yellow represents the crest of the dune and the green represents the crest of the berm, the landward crest and the seaward crest of the berm. We look at this in plain view. This is one of those open spaces going down towards Pelican's Perch. Pelican's Perch is about a half or quarter mile or so south of this point. This red line is that same red line in the previous slide. This is where the design would start. It would slope up to this yellow line which is the top of the dune, it would slope down from that yellow line to the green line and then between the two green lines is basically where the 50' berm would be. But what we said is in those areas where the dune is in good shape, instead of building this dune here we could just tie in to this existing dune, so we would bring this berm elevation back to wherever the 6' elevation is on the beach. And we would just tie it in and it ... basically in a schematic this is what it would look like. So we have already got a healthy dune in place there and there is no need to place that additional sand. We would just construct the berm back.

One of the things that is important to discuss is that when we build a beach we want this line, this forward point in the design, to be fairly parallel to the existing shoreline. We do not want to get to a point where we have a whole bunch of zigzag and saw teeth in the design because Mother Nature is going to smooth that out. So if we build out in one area and build in in another eventually that is all going to smooth itself out. Sometimes it is better to actually place the sand where you want it to be placed rather than waiting for Mother Nature to do the smoothing for you.

Looking at this berm only in some of the sections where there are no structures and the dune is in good shape we decreased that 147.4 down to 138.9 (Alternative 2A). It is still significantly more than what was originally estimated for the county project. I think 83% more sand. At that point in time we are trying to figure out moving forward what is a feasible design. What is

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something that fits the budget that the county and the town have set out that gets them the best bang for the buck. Or is there a project moving forward that gets enough bang for the buck? Is this still something that should be pursued?

Over the last couple of weeks we have looked at two alternatives that we will need to explore further in some of the storm simulations that I talked about earlier. The first one would be a berm only design. This is very similar to what was constructed in Nags head. The Nags Head project did not include constructing any dunes. It was basically just pushing the shoreline out a certain distance. Here the design would be the 50' berm and we would place that advance fill on top of it. As I said when you first construct the project it might look like you have pushed the shoreline out a 130 to 140' but basically the design we are looking at is widening that berm about 50'.

Without going through the simulations we can say anecdotally that when you put this berm in you are tripping up the storm waves before they would reach ... in this case we are really looking at protecting the road but there is some value in this berm. You are dissipating the wave energy and you are not breaking right on the dune you are breaking further off shore onto this berm. There is definitely some protective benefit to that berm but when we think in terms of that overtopping being a high priority for the town right now this design really does not do anything to plug those gaps up in the existing dune line to where we would expect that an event like Irene or Sandy that building the berm only would reduce any of the inundation that you might see or the over washing. Certainly some of the damage to roads and utilities may be minimized but as far as the over washing and flooding this type of design is probably not going to do a whole lot to protect that.

If we do move forward with that type of design the Preliminary Overtopping Analysis becomes even more important. The priority would be we are moving forward with this berm only design but we still have this very porous dune line. We have to figure out a way to work with individual property owners and reduce the amount of overtopping and reduce the weaknesses in the existing dune line.

Klutz: *The way the oceanfront looks right now that 6' berm would be moving in and out because of all of the dune pushes that are in front of almost half of the properties. When you use the term smoothing, when you spoke about it, didn't you say that the smoothing winds up eroding or lowering the adjacent properties to where the dune does not exist? How would you deal with that in this alternative because you are not going to knock down those pushed dunes or are you?*

Willson: *No the pushed dunes are constructed at a higher elevation than that 6' contour that we would be looking to build the beach out to. The 6' contour is probably just a couple of feet higher than where the wet/dry line would normally be. As long as there is some dry beach between where those constructed dunes are and where the water would come up on a normal tidal cycle there would not be any impact to those constructed dunes. This would all be built in front of the pushed dunes.*

Klutzn: *But the line would ... if there is a property that has a pushed dune in front of it and the next property does not that berm would have to move westward on the adjacent property? Or are you going to maintain a straight line?*

Willson: *No we would ... I mean it is going to be working on averages. The design we are looking at right now is based on kind of a thousand foot spacing so we are not really looking back ... that detail from a property to property basis ... a lot of that would end up being smoothed out and like I said one particular scrapping event is not really going to produce a significant or a measurable difference. It is really that habitual, time and time again. There could be some losses to the adjacent property owner that we are suggesting that maybe an addition of that sand would help out but a project of this scope where you are coming in and putting 80 cubic yards a linear foot ... that is really going to kind of gloss over and cover up all those little different changes from property to property if that answers your question.*

Bateman: *Nags Head is experiencing a lot of problems right now with a dune being created basically and that is what we are trying to do here. If we put the 50' berm out there would we not have a dune created just like Nags Head? They are doing beach pushes now. They have people with swimming pools that have sand in them. Do you see what I am saying?*

Willson: *Absolutely and that is a very good point. What you would do with a project like this, learning from the Nags Head experiences if we did settle on something like that, you would certainly recommend putting sand fencing up and once the sand fence starts building that dune up, planting it to try to establish a dune. The difference is you cannot really predict how wide or how high that dune is going to build up. You are basically waiting for ... it's a factor of the composition of the sand. How much fine sand is going to blow around to build that dune up like it did in Nags Head and then how high up can you build it. But when you are talking about a designed dune we can go in there and we can physically place the sand that we have simulated to make sure we have a particular dune in place. There is definitely a benefit of doing what you are talking about it is just less predictable. You may end up ... we may do an analysis that says we recommend building the dune up to about 13' in elevation and maybe the sand blown dune that you create is 11' or 12'. It is still going to protect more than nothing but it is not ... it is not in fact a designed dune but it is a good point. I mean this is not to say there would be no dune whatsoever. Certainly from the Nags Head experience you put the sand fencing out there and put that much sand you will create some kind of a dune. It is just that it would not be a designed dune that we have said ... we will have this set structure of a dune in place along the entire line of the shoreline. It would be a little bit more at the whim of nature.*

One of the other hypothetical designs we have looked into at this point in time is we saw earlier the amount of volume that it took to construct this large design seaward of any of the structures that are out on the beach right now. We identified sort of a hypothetical bare minimum that we might recommend simulating with the storm simulations and we came up with if instead of a 13' high dune we constructed a 12' high dune and what if instead of a 20' wide dune crest we

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constructed it at 10'. And then we decreased the 50' berm down to a 30' berm, and again without running these simulations this is somewhat hypothetical, but again this is kind of the bare minimum that we might recommend at least trying to simulate and seeing what type of benefit both to the flooding inundation and to the damages of the roadway and utilities that a design like this might get. When we looked at those volumes the berm only comes out to 77.4 cubic yards a linear foot. **(Alternative 3)** Right at 1.5 million which is pretty much exactly what the original estimate was for the town wide project that the county is using in their preliminary estimates. So the berm only certainly fits the budget and fits what the county has set out in its projection of what the Kitty Hawk project looks like.

Alternative 4, that minimal design I talked about. Again, we have not simulated it and that's basically the next step moving forward. Simulating it to see how much bang for the buck and that would take about 83.1 cubic yards a linear foot and we are looking at about 1.62 million cubic yards. I think this is about 8.5% more sand than what the original estimate was for the town wide project that the county is currently using.

Schedule Update

Willson: Let me go through this one slide that will provide a schedule update and then I will be happy to take as many questions as you have.

Basically we have a three pronged approach to get through this project and get the permits in place and get the project constructed. We have the geotechnical investigation which is basically the sand search investigation. About two weeks ago, the early part of June, we finished up the first geophysical survey looking at four potential borrow areas off shore of Dare County. The initial results of that look pretty promising. We are in the process now of planning for the actual vibracoring. We have a ship that will be off shore for a couple of weeks and they will be taking core samples of the sand that we have identified as potential borrow sites. That could start as early as next Monday. We are waiting on a permit to come forward from the Bureau of Ocean Energy Management and it looks like we should get that by Thursday. We are looking at moving pretty quickly on that to stick with the schedule. The environmental documentation is basically the longest process. The geotechnical and the engineering design feed into the environmental documents. The environmental scientists have to identify what types of habitats could be impacted by a beach project. This is pretty cut and dry. There are many beach projects going on in North Carolina, a lot going on in Dare County, and a lot of this overlaps with the other two projects that we are working on right now so those environmental documents tend to look a lot alike except for the particulars of the engineering design. The engineering design is also something that we have ... as I presented here we have some preliminary concepts that we are ready to move forward with.

The next step will be those storm simulations and then honing in on a particular design that would eventually be adopted by the town as their preferred alternative. We are working on moving all of this forward to create a preliminary draft of the Environmental Assessment. We are

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looking at some time around the end of August having enough information that we can submit a preliminary draft of that document to the Corps and to the Bureau of Ocean Energy Management. They will review it and will make some changes to the document then we will submit the draft EA for public comment. Sometime around the early part of November there will be a 30 day public comment period. That takes us into early December and then we anticipate about 3 months to make any changes needed from the draft EA to finalize a final Environmental Assessment. Submit it and have it published around the beginning of March 2015. About 2 months after that we would look at submitting a permit applications to both the state and the Corps of Engineers and given the review time for those permit applications that would put us at receiving permits right around September 2015. It gives us plenty of time to develop the plans and specifications for the project. We are looking at bidding this out sometime between November and December of 2015 and right now the date we have set construction to potentially begin is February 2016.

The contractors would have a 12 month period to construct all three, the Duck, Kill Devil Hills and the Kitty Hawk projects all within that 12 month window. It really depends on when that window would start. We wouldn't really think a contractor would want to come up to the Outer Banks and start working in February so we have a couple of months in the schedule ... most likely they wouldn't start until May but the idea is whenever they start they would have a 12 month window to construct the projects. Whether it would be February to February or May to May or June to June.

It seems sort of crazy that we are still two years out to get to this point and one of the main drivers of that is what we call the Biological Assessment and the Essential Fish Habitat. These are two documents that are similar to the EA. They have similar information but they basically go to National Marine Fisheries and U.S. Fish and Wildlife Service. That is basically their consultation process to look at those documents and go back and forth with the Corps and BOEM to come to some agreement on conditions to move the project forward. We have been told up front that we need to plan for about a year's worth of that coordination between National Marine Fisheries and U.S. Fish and Wildlife and the Corps and BOEM. That is really why we are working so hard right now. Between now and Christmas a lot of this will be completed and it is really going to be waiting for these documents to be reviewed by these different federal agencies.

At that time we can also start moving forward with plans and specifications. On July 15th, which is coming up pretty soon, one thing ... this draft EA. Each one of the three towns we are working with will have their own Environmental Assessment but the Biological Assessment and the Essential Fish Habitat Assessment is actually one document for all three projects. They call it a batch document. There is a little bit less specific information in those documents as far as the project designs. We have already submitted our draft EA and EFH to the Bureau of Ocean Energy Management and the Corps of Engineers and they are currently reviewing that internally. Then they will get back to us on what additional changes we should make to that document before we formally submit it to National Marine Fisheries and U.S. Fish and Wildlife.

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We suspect that will happen sometime around September 2014. We have built in that one year of coordination and that gets us to September 2015 which is about the time we expect permits to be issued. You all have access to this presentation and with that I would be happy to take any questions you have on the design or the schedule or the overtopping analysis.

Perry: *Tonight we have looked at several alternatives and how quickly do you need council to review them and get back to you with which one you should concentrate on? We still need dollar figures of course.*

Willson: *We will certainly simulate that berm only alternative and looking at the damage mitigation aspect of it. We can certainly simulate that Alternative 4 again. It is a small incremental increase of 8.5%. We have not changed the numbers yet because we are in the process of finishing up some of this geotechnical investigation. The next meeting with the three towns and county is the end of August. We are supposed to provide our updated cost estimates to the Carter Group on August 13th so at that point in time we will know what our construction numbers are. Then it is my understanding for the next two weeks they will be reworking the financial models with the county to figure out the lead distribution so I do not think it will be until the end of August where we figure out what that new distribution looks like.*

Probably the safest bet for now would be to use the numbers we were working with previously which I hope is going to come down just on the sheer fact that the sand sources appear to be a little closer than we had originally anticipated. I do not want to jump the gun on what that will be so work with the existing estimates that we have. We know that Alternative 3 is in the ballpark of what was originally laid out in the county plan and then Alternative 4 like I said we are kind of looking at that as the bare minimum. We can provide you with what level of storm damage reduction that alternative would have. We could certainly go incrementally up ... we could try to go incrementally down from that to see if there is something even smaller that might work but that is where we will concentrate our efforts unless you have something specific that you think we should look at. I think the first two alternatives that we are really going to concentrate on are Alternative 3 and 4. That will give us a real good idea of if there is a dune design that is within a reasonable budget that we can shoot for or are we really looking at that berm only design.

Perry: *And when you look at that we want to know if it is going to work or not work.*

Willson: *Correct.*

Perry: *If it does not work we need to rethink the whole process. All right so the end of August we are going to need to know something ... we will have something to work from. The Alternative 4 actually may only be a 10' wide dune top but you still have the same situation of blowing sand that you could build a dune out using sand fences. That has a possibility at least from my point of view. Anyone else have questions?*

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Bateman: *You said you had not done a storm simulation on any of these alternatives.*

Willson: *That is correct.*

Bateman: *Wouldn't you want to do that first to see what is and what is not going to work before you come and ask us which one we want?*

Willson: We felt like it had been six months since you first approved the contract and it was really a way to come in and present the Preliminary Overtopping Analysis and some of the recommendations in it. I think this comparison between Alternative 1 and Alternative 2 kind of highlights the importance of is there a project that can be constructed that has that dune. I agree that we still need to provide that answer to you of yes there is or no there isn't something. This was to give you a 6 month update to let you know where we are in the process and also looking at sort of the gravity of the overtopping analysis and that if in fact we settle in on the berm only is the only thing that can be constructed or something like that. We want to look at what can be done with the sand fencing and other things that are in the Preliminary Overtopping Analysis ... what else could be done?

Bateman: *I think the important thing for me is to know if any of it is going to work.*

Perry: *I am a little bit at fault here in the sense of what is happening. The reason is in the meetings we are having with the other two towns and county I came to realize they were looking at the other two towns completely different than Kitty Hawk and I basically changed their direction. I said we have a different problem. We are not trying to save an oceanfront house so much as we are trying to save everything west of it. That prompted them to go back and take another look and bring us something we can at least start looking at and thinking about. So in that sense I started this and caused him to come and give us some sense of what is possible. Now he has to do his calculations and tell us it will work or it won't work and then we have to look at the cost.*

Willson: *Work and will not work. Those are very relative terms. There will be a lot of back and forth for the town to decide what is an acceptable level of storm damage reduction versus we do not feel like we are getting enough bang for the buck. We kind of set the game rules in the storm simulations and the analysis and we will give you as good of a number as we can to help you make those decisions.*

Perry: *And there will be the common term they were using. There is a risk and is that acceptable to us for the money we are spending and imposing on the citizens. Can we live with that knowing it is never going to be 100%?*

Klutz: *With regards to the storm analysis I think I heard you say you were going to do the berm only analysis and we need at least two. I think one with and one without the dune construction*

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because a 6' berm which would get the beach higher ... the oceanfront I know in Kitty Hawk I just cannot imagine that would stop overwash onto NC 12.

Willson: *That's exactly right. I mean that is what I was trying to show in the schematic. That if we were to put ... in that particular schematic this one here ... in this cartoon there is a dune but from the preliminary overtopping analysis we have seen there are many places where there is no dune. There is a driveway or a gap or something like that so that is why I was saying this type of a design would certainly have some damage reduction to something like a roadway or like a house or something like that but as far as blocking that overwash ... that has minimal benefit. One of the things we want to look at is the minimal design with a dune and see how much of a benefit it would actually provide.*

Garriss: *Going away from here for just a minute and going back to the overtopping analysis. I would hate to put more of a hardship on a property owner because they are going from three parking spaces to one parking space. You talked about the incentive program. I like that. How much experience have you had with the incentive program? Did it work? I can see a homeowner having problems renting that home because all of a sudden they only have one parking space.*

Willson: *This is a fairly unique problem that we have seen in North Carolina. I mean some of this stuff was really brainstorming with different engineers and folks that have been in coastal management trying to understand what sorts of things won't work. We understand there are some properties that there may not be a solution that we can find. But as far as far as real world experience with those incentives I cannot point to a specific occurrence. I am just trying to think of what could be offered. Lower the weekly rental enough so that somebody would for \$300 less a week ... is it worth the inconvenience to have a beachfront house for a week and ... what we are trying to find ... it is going to be a case by case basis. Can the town come up with a one size fits all incentive program? It is certainly going to be a challenge.*

Klutz: *Knowing those private properties I cannot imagine incentives other than if the town were giving them money to raise driveways or something of that nature because some of those houses are so close to the road there is just no ... it is just not going to happen. I think though that one of the things in the overtopping analysis that we actually have some control over are the accesses at Byrd and Eckner Streets which are pretty flat. If the town is going to put money into some interim actions that seems to me ... plus the wooden walkovers. Those are CAMA approved and actually collect sand underneath of them. I think that would close a lot of the gaps we have. We have some power over getting that kind of thing done.*

Pruitt: *Since there is kind of a large time frame in this whole project ... over the course of this period a lot of our dune lines you observed are pushed dunes or pushed off of the highway ... why over this period can we not start pushing up and form a dune prior to coming in with off shore sand. Can a berm of that nature be built?*

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Willson: *That is exactly what the Preliminary Overtopping Analysis was meant to be. It was an acknowledgement that this is a long process. It is going to be two years before we see that dredge show up on the horizon to start building that big beach in front of Kitty Hawk. We know that there is a critical issue here and what could be done in the interim to plug up some of the holes in the dune line. The analysis was looking at maybe 20 different cases along the beach. We did 10 different site visits. There are more low spots than just 10 but we were trying to identify spots that represented a number of different properties or a number of different public access points and saying for these this might be the solution, for these over here this might be the solution. Trying to come up with action alternatives that would kind of cover the gamut of all the different types of low spots that we observed.*

Klutz: *Jeff are you saying we have dunes in front of houses right now and I don't really call them dunes because they are sand piles. The sand has been scraped from in front of that property and placed in front as though it were a dune and there are some heroic efforts out there on the part of the property owners to vegetate them. I know they come and they go and when they are gone they wait for the season and they push the sand back. What I think you were saying is that in order to have some sort of a dune perhaps produce one in front of oceanfront properties through a push, ahead of putting the sand on there. The question I have is what was said about lowering the beach. What would be the impact of some action like that? In effect try to create it. It would not be the kind of dune you are talking about but the kind of dune that you see now in front of the houses with a push.*

Willson: *Driving the beach in February there were some places that were newly pushed and those areas that are able to push up and maintain, even if it is a temporary dune, those are certainly not the places where there is over washing. Driving the area with Willie it was interesting because our maps were following more of a permanent dune line and sometimes that was on the west side of the houses and some places that dune on our map showed it to be a very low elevation. I point to the map and ask is this a bad spot and Willies answer is no that is a really good spot and we drive out there and it is because that particular property owner was very diligent about making sure there was always a dune in front of the property. So even though the main dune that we identified looking at the regional data looked very low those property owners were able to maintain the dune in front of them but a lot of the gaps we are seeing are places where people are not regularly pushing or there is just no room. Like I said it is very short lived to build one of these dunes up to where it is sitting so low on a profile that at every high tide the water comes up and starts chewing away at the bottom of it. The higher up on the profile you can build that dune the longer it might last but if there is no room in front of a particular property to construct that then it would be a waste.*

Perry: *If I understand what they are alluding to, what they are really asking is, you as the engineer, if you built into part of your calculations a beach push continuously down the beach and built an artificial dune before you put nourished sand in front of that dune ... have you thought about that as a part of the project? Am I right?*

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Pruitt: *That is correct.*

Perry: *I think what they are asking is could you do or should you do that? Everything you have brought to us in the Preliminary Overtopping Analysis is something you are suggesting the town do in one form or another in relation to the beach nourishment project. The question before you from two members of council is, as part of your design, would a beach push be part of that prior to pumping sand and what would it do.*

Willson: *I think we are not really adding sand to the system so I guess the answer would be that at the end of the day we are still placing the same amount of volume of sand out there. If you rob the lower spots to build up the upper spot then it is just more sand we have to put in the lower spots. It is not going to change the cost at all and really what we are looking at for that minimal design is whether or not there is enough room seaward of those structures to construct a minimal dune and enough of a berm that is going to protect that dune. It is going to start chewing up the dune that we built. Is there enough room there to build so whether or not we do the dune push right before the project or not I do not think it is going to impact the cost. If in fact we feel like a dune can be constructed we will construct it at the time of construction and it is not going to take any more sand because ... we didn't ... the sand just came from another spot on the _____.*

Perry: *In your engineering calculus it does not add any benefit one way or the other to do a beach push and then pump sand.*

Willson: *Correct.*

Perry: *Any other questions? Hearing none Mayor Perry thanked Mr. Willson for the presentation and said council had to get Kitty Hawk in the right direction for what is needed. Maybe now it is.*

Willson: *Thank you.*

5. Public Comment

1.) Francis Gallagher – Beach Tents - *First of all I want to thank the town council and the town clerk who communicated with me very swiftly. I have a house on the beach road at about milepost 3.5. I have had it for 6 years and my brother Jerry Gallagher, whom you may know, has had a house on the beach road for almost 30 years. We love it in Kitty Hawk but we have seen over the past 3 years an increase in what I call beach tailgate tents. What we have found is that these structures have a safety issue and I also think they impede and infringe on the rights of the beach goers in Kitty Hawk. Looking at safety, many of the frames are left out overnight. The reason I emailed is I was out taking my dog for a walk on the beach at night and we got all tangled up in one of the frames.*

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You have visitors who come to Kitty Hawk to enjoy the beach and they put their frame up and then they leave and leave the frame. No one knows if they are abandoned. Is someone coming back for them? They start falling apart and so forth. I have some pictures I can pass around. The tie downs are sometimes 12' long and of course I think that leads to tripping at night and also during the day. I think it also obstructs the beach patrol, their view down the beach for emergencies. I also see the beach patrol having to maneuver around the frames during the day. There are several frames that are up without tenting and we don't know if people are there or not and the beach patrol is weaving in and out of them. I think they become a big hazard in the wind, far more of a hazard than an umbrella. These things are huge and they take off and they are not down so well. I also find that the people who put up these tents unfortunately are leaving trash bags, chairs, beach items and they bungee them down to the town sand fencing. We also found a volleyball net that was left out all night.

I feel everybody has equal rights to enjoy the beach, to enjoy the sun and we do that but what happens when you have these tailgate tents they set up their dominion there and they leave them up and then the next morning you come down and there they are again. They sort of hunker down in the space and they obstruct the view and so forth. I think everybody has a right to a first come first serve basis to get down to the beach. So it is not just safety it is also the whole idea of everybody should have a right to the beach and to enjoy the beach. So they hunker down for about 3 weeks and you don't know what's going on. I think they also block the view quite a bit.

In conclusion I would love to ask the town council to study this or to vote on a ban of these tents on the beach. I know it is very difficult to enforce the removal of these items in the evening. The beach patrol leaves and people are still on the beach and you do not know if it is an abandoned tent or not. I think that is too much of a burden on them.

There is a precedent. If you look on the internet I noticed that Myrtle Beach has banned them and so has Panama City, Florida. I don't know if this ties into what Ken was talking about with the beach nourishment. Do we need to have these things out there all the time? Maybe a vote or a temporary ban to review and see if there is any way we can relieve ourselves of these giant spiders that are left on the beach. Thank you.

Klutz: *I go to the beach every day and the only thing that troubles me is the idea of a ban. Just about everything that happens on the beach annoys somebody and could also present some kind of a safety hazard. If we start to ban various activities or paraphernalia where do we go next? I have seen umbrellas flying around the beach that look like they could impale somebody. I have been bitten by dogs twice but I would never support a ban on dogs. That is where I am coming from.*

Gallagher: *I agree Emilie a hundred percent because that is the one thing I love about Kitty Hawk. In New Jersey you cannot take a raft out, you cannot take a kayak out, you cannot do this and you cannot do that but maybe if people were not allowed to leave stuff on the beach. I do not*

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think you should leave anything on the beach. I would not leave my dog overnight on the beach. I would not leave anything there.

Klutz: *I think maybe try to educate a little. We have the newsletter and maybe we can go to property managers and ask for their help. Suggest taking tents down at night. It is kind of hard to see them and I can see where you might trip or run into one. But again that is just my opinion.*

Gallagher: *I understand. Look at that one picture of the frame that has been reinforced with wood. It has been up for three years.*

Perry: *Thank you. Does anyone else wish to speak?*

David Hunt: *My name is David Hunt and I am a resident of the Town of Kitty Hawk. After watching the presentation on the beach nourishment are you planning on having any kind of public hearing or anything to get the public's input? Or is it going to be strictly council deciding which alternative to choose?*

Perry: *The next step for us is basically determining what alternative might be feasible for the town and then hold a municipal service district public hearing to propose a tax rate. At that we determine whether or not the townspeople want to pursue this or not pursue it. What we are doing right now as a council body is trying to figure out if this is even feasible. We are not there yet but we are getting a lot closer and we are asking the right questions and pointing the engineer in a direction for Kitty Hawk which is so different than the other towns.*

Hunt: *All right. Thank you.*

Perry: *On the tents. John there are a couple of things I want you to do. I want you to investigate if the police and fire chiefs and lifeguard services could give us some indication of a problem. How extensive it might be. If we did anything we would need to know policing issues. Who would take them up, how involved would it be, do we have a lot of complaints. In other words bring back to council something that will help us determine if we even have a problem of the magnitude council needs to do something.*

No one else came forward for public comment.

6. Consent Agenda

a.) Approval of May 12, 2014 and June 2, 2014 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for May 2014. *(An affirmative vote for the consent agenda will acknowledge this report.)*

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c.) Personnel Policy Updates. The town council reviewed the updates at their May 12, 2014 meeting. The changes have been implemented and the policy is ready for adoption. *(An affirmative vote for the consent agenda will approve the Personnel Policy.)*

d.) Capital Expenditure: The police department is requesting permission to purchase an office copier/scanner/fax in the amount of \$10,624.18. *(An affirmative vote for the consent agenda will approve this budgeted capital expenditure.)*

e.) Acceptance of Donation from Joe Lamb, Jr. & Associates. A donation of \$100 was given to the police department. It will be used to help purchase an automated external defibrillator (AED). *(An affirmative vote for the consent agenda will accept this donation.)*

f.) Interlocal Agreement with Dare County for Hurricane/Disaster Debris Removal. This annual agreement will allow the county, in the event of a disaster, to coordinate the collection of disaster related debris. *(An affirmative vote of the consent agenda will approve this agreement.)*

g.) Emergency Facility Repair. The town received one bid for emergency repair of town facilities in case of a natural or manmade disaster. The bid is from Sanderling Construction and staff recommends accepting it. The contract shall be in effect from July 7, 2014 to June 30, 2017 with an option to renew for an additional two years. *(An affirmative vote for the consent agenda will accept this bid.)*

MPT Bateman made a motion to approve the consent agenda. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.

7. Items Removed from the Consent Agenda

There were no items removed from the consent agenda.

8. Public Hearing

a.) Zoning Amendment: Application to rezone the property at 223 W. Tateway Road from Low Density Beach Residential (BR-1) to Medium Density Beach Residential (BR-2).

Councilman Garriss made a motion to go into public hearing. MPT Bateman seconded and it passed unanimously, 5-0.

Heard: *We have this evening a proposal to rezone a property at 223 West Tateway Road from the low density residential BR-1 District to the medium density Beach Residential BR-2 District. The main difference between these two districts is that under the current BR-1 zoning the property is generally limited to a development with a single family residence. There are a few*

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other types of uses that are sometimes compatible and can be done as a conditional use but that is basically what this property can be developed with.

If the change to the medium density residential district is approved the property owner would be able to develop a duplex. The BR-2 District does have some provisions to allow a duplex or multi-family residential as well as single family. Due to the size of the property it would be limited to only a duplex so this would not be a circumstance where the property owner could put in three or four units. The maximum would be two under the standards for that district.

Starting with our zoning map you can see all the way down on the bottom is the boundary of the Town of Kitty Hawk so we are at the very southern boundary looking at Jejac Street. This property highlighted in the red is the subject property. There is a 30' wide access easement that provides access to this property. This runs down and connects all the way over to Tateway. It is the same access for two single family residences located across the road to the east and then there is a six unit townhouse complex located near the corner of Tateway that also gains access off of this same road. This is the means of access to the subject property and you can see how it comes in and there are 75' of frontage along the front of the property.

You will notice that access road does not show up on the county record because it is an easement. It is not a property line and it is not a right-of-way that would show up like a road would. It runs through the green portion of this map. Subject property is almost 2/3's of an acre in size, 27,493 square feet and it is presently undeveloped. It sits fairly high in an X flood zone, has some rolling terrain. A lot of what is around this property is undeveloped presently.

There is a very recently constructed residence on this corner property but all the other row of properties that abuts the subject property are zoned BR-1 and are undeveloped presently. There is a large parcel owned by Charlotte Walker that is fronted along Jejac and is zoned BR-2. It is also presently undeveloped. Across the street from the subject property are a couple of single family residences.

Curiously enough these properties when developed were developed as part of the subdivision that comes in off of Sunrise View and also have access rights to that same easement. In this case the owners of those properties chose to orient those residences toward the 30' access easement and that is where they gain access as well. This series of rectangular blocks is a small townhouse complex the Dunes.

The subject property has two sides that abut BR-2 and two sides that abut BR-1. The future Land Use Map calls for this entire area, including the other BR-2 area, to be developed in a low density residential fashion. In looking at that the planning board found the request was inconsistent with the Land Use Map because of allowing the multi-family use within that low density district. The planning board reviewed this application at their meeting on May 15th and voted unanimously to recommend denial of this application. The board's motion contained the

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statement that the board has found this request is inconsistent with the future Land Use Map in the town's adopted Land Use Plan and would create a more irregular zoning boundary.

I will be glad to answer any questions the councilmembers have.

Perry: *The easement is actually on the private property asphalt of the two homes and that townhouse complex. Is that correct?*

Heard: *Yes sir. That is correct. I have copies of the plats for those other lots. This is the townhouse complex and you can see the dashed line running down. This is the 30' wide easement. The darker area is the actual pavement within that easement. You see how it widens out with a parking area for the townhouses. That is their property. This is the first of the residential properties. You can see how it runs right through the property and continues on through the next property. I also have a plat of that property and it shows the same thing running through it as well.*

Perry: *Can you show that because I have a question.*

Heard: *You can just make out the dashed line and it dead ends into the Charlotte Walker property. The subject property is here.*

Perry: *Looking at the property as it comes off of that road ... I went up there and I was very surprised at the easement and the fact that it is on private property and that it drops into a very steep hole. Basically the piece of property that is being asked to be rezoned must drop down 10 plus feet and it is almost a vertical drop. If you try to put in a duplex, add density to it, the problem you would have with the driveway accessing, at a sharp turn to boot, plus the downhill, that creates a problem. We have to look at that real close. I do not know if the rest of council went down there to look or not but if you did you would understand what I am talking about. It is a very deep hole and I see access problems in addition to what else might be there.*

Klutz: *The easement and the road on that easement. I am thinking of Ride Lane. Who is responsible for maintaining that road?*

Heard: *I do not know. I have not seen a deed related to it. Town attorney Michael may have a comment related to that.*

Klutz: *So everyone is on his own basically for that patch of road in front of his or her own property.*

Heard: *There may be something spelled out that makes it clear what the responsibilities are. I just have never seen a copy of it and do not have the information.*

Klutz: *Maybe one of our public hearing speakers might be able to shed some light on it.*

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Perry: *Anyone else have questions of Joe? Hearing none he asked for the first speaker to come forward.*

1. Joyce Stone, 74 Poteskeet, Southern Shores, NC: *Thank you. I appreciate your time. I am Joyce Stone and I own 313 Tateway. That is Lot 6. I do not remember exactly when I bought it, maybe 12 years ago. I did not know there was an easement that is showing up now but that is beside the point.*

My experience has been in the real estate industry. I worked for the developer of Southern Shores, Kitty Hawk Land Company for six years, Southern Shores Realty four years, six years for a real estate developer with a sales office in Duck and then ten years in sales and I happily retired nine years ago. You do not need this background to recognize things that can have a negative impact on your property but I think it helps to have it.

I should have gone back out and walked the lot. My lot goes from the street and it is higher in the back corner and on the west side which is the same for Lot 10 I believe. That is higher on the west end of the property. I feel that rezoning would impact my property. It would allow a larger mass building and it would be a higher elevation. Perhaps it would impact me, the living space possibly, if I built or someone else built a home on that lot.

I am looking at it as probably devaluing my property because real estate sales are going to come around and the next revaluation is going to show if the prices have gone down. That would affect the tax income revenue for Kitty Hawk and Dare County. So I am trying to look at the whole picture. These are the reasons that I oppose the rezoning. If you have any questions I would be glad to answer them and thank you for listening to me.

2. Matt Witter, 219C West Tateway, Kitty Hawk, NC: *Good evening. My name is Matt Witter owner of one of the 6 Dunes townhouses that were pictured earlier at 219 West Tateway Road. I am currently serving as president of the Dunes Homeowners Association and I have been asked by our members to come here and express our opposition to the proposed zoning change for the property at 223 West Tateway. I think we have used some incorrect wording in the letter I submitted to you but the correct word from what I heard from Joe is the easement that was granted. The easement goes directly across our driveway and parking lot and we have concerns about safety, noise and additional wear and tear on the parking lot. We are opposed to any change that would increase the traffic movement back and forth beyond what that property already has under its current zoning. We respectfully urge you to affirm the town planning board's decision and vote against the requested zoning change.*

Perry: *In reference to Emilie's question do you know who repairs the road. Who has the responsibility?*

Witter: *We do. When there have been items that require attention the owners of the two homes that also use the easement have shared in the cost. Probably in some old minutes of the*

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association would maybe be some of what you are looking for as far as how it got to be like it is. I know the easement was granted way back when and the previous head of our association often talked about how he wished we had not done that.

Perry: Thank you.

3. Michelle Bobik, 219H West Tateway, Kitty Hawk, NC: *Good evening my name is Michelle Bobik. My property is the final property that the easement runs over. We had a hard time figuring out where 223 West Tateway was because as you see from the brochure my husband is passing out, we picked this up at a Parade of Homes a number of years ago, we know this lot as 301 B West Tateway and everyone in the neighborhood knows it as 301 B West Tateway. If you look at the backside of the brochure you will see that it is Lot 10. I have gone on Google Earth GPS and it does not come up. That lot is in the 300 block of Tateway Road. A second sheet is a plat of Lot 10 and you will see the existing pavement, the easement runs over Parcel B of the portion of the Severn Tract. That is where my property lies. The third sheet is my subdivision, the Dune View subdivision. I am also known as Lot 10 in that subdivision. You will see the easement running over the property line of Lot 11 and Lot 10. And finally you will see the final survey which they already showed, which I was surprised, it is my "as built" survey. You will see in relationship to Lot 10, the lot in question, the one we know as 301 B West Tateway, where my house lies, where my driveway is and the easement running over the western section of my property.*

The flyer about the property advertised in the Parade of Homes years ago said it was a legal duplex. When we purchased our property we were assured that all the homes adjoining ours in the neighborhood were residential ones, single family. We came to see the town manager in the town hall and he advised us that this was false. It was not legally zoned for a duplex back then and obviously it was the intent from the very beginning that a duplex was going to be built.

We are very concerned about safety. First of all the previous owner dumped all kinds of asphalt, concrete roadway, steel poles and there are 2 x 12's with nails sticking out of them, construction debris, and it was as Mayor Perry brought up, because there was such a drop off. It was dumped on the property but it was also dumped on top of the easement. We had to come to the town hall again about the easement. We had to meet with the town manager who came out and told us that it was going to be stopped. We also had to go see Crouse Gray, our attorney, and he sent them a letter. Unfortunately I do not have it with me because when I left New Jersey I did not know ... this property to me is 301 B West Tateway so I had no idea that this was the property in question. The dumping stopped but it was never cleaned up. Right now it is overgrown but the hazards still exists. Children in the neighborhood were climbing on it. We asked the town manager about that and he said I was not legally liable but we were concerned. Right now we have a great increase in the snake population in that area because they have a lot of little cubbyholes. It is not stable so before anybody with construction equipment goes on that know it is not stable.

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When we decided to build a second home we had vacationed here for fifteen years. We went all up and down the Outer Banks from Corolla to Hatteras. We love Kitty Hawk. Why do we love Kitty Hawk above all the others? Low density, family atmosphere and neighborhood feeling. My husband and I have taught a combined 79 years, 40 for him and 39 for me. We teach in the second smallest school district in New Jersey. It is that community, neighborhood, family atmosphere that we love. In our neighborhood it is basically year 'round families and second family homes. We have very, very few rentals.

Having an easement on private property means the police cannot come down and patrol unless they are invited. Unfortunately I had to learn this first hand. During the summer of 2005 our neighbors on Lot 11 decided to rent their house on a yearly basis. Well the renters decided to go into the drug business. We found out that in order to get the police involved we had to be vigilant on a daily basis. It meant for the entire months of July and August I did not sleep. That is no exaggeration. I worked with Detective Styons of the Kitty Hawk Police Department and Sheriff Deputy Duprey on almost a daily basis. I put myself at risk but I had to end the nightmare. The house was raided three times and after the first time gang members started to frequent the property. We were threatened with physical harm. We had property damage and I have great concern about a multiple dwelling being built at the end of this easement. It is a magnet for illegal activity.

My third concern is the traffic. We have children who visit and the next door neighbor has grandchildren. We have pets, they have pets. The easement is basically in our backyard. There is very little room for two cars to pass each other. This easement was not intended to handle a lot of traffic. We pay to maintain it. The Town of Kitty Hawk does not maintain it in any way. The more the traffic the more the wear goes up exponentially. The cost for paving and sealing is in the thousands. When the easement was granted 30 years ago the world and Kitty Hawk was a very different place.

In closing, we want to keep this a residential neighborhood. It is why my neighbors live here and it is why I travel seven hours from New Jersey on a regular basis. We live here in the summer so right now we are here for the next month or so. Secondly, we have safety concerns like I said with children, pets and increased traffic. It is not a public road. It is an easement over private property. It is an easement that I use but I don't need to use because my property goes up to Sun Rise View. That is my deeded access, 129 Sun Rise View. As the road gets more and more used the cost of maintaining goes up. The daily wear and tear breaks down asphalt. We are aware there are plenty of other areas on the Outer Banks that are already zoned for medium density. This is a small residential community. We feel if this is approved what will come next?

We have something special here in Kitty Hawk and especially this family oriented neighborhood. We did not build a second home in New Jersey because of it being overcrowded, high traffic, crime and there is plenty of medium and high density. We did not want that. We are asking you to please keep our neighborhood special. Please do not change the zoning on this lot. Thank you very much.

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3. Carl Worsley: *That is a tough act to follow. I am Carl "Pogie" Worsley and I am the owner of the subject property. Basically when I was thinking duplex years ago I was under the impression, and I was sold the property, that it would be legal duplexes. It was about 2003, 2004 when I purchased it. But anyway the property follows under the guidelines in the BR-2 for duplexes as far as size, dimensions, frontage that type of thing and being that it is sided on the east, south, southwest, basically I call it three sides, by the BR-2 I feel like this would not be called spot zoning. That is a word we have not used tonight but sometimes if something stands alone they call it spot zoning and I feel like it is a logical request ... I am sure you will make a wise decision.*

There were no further speakers.

9. Return to Regular Session

Councilman Pruitt, seconded by MPT Bateman, made a motion to go back into regular session. The vote was unanimous, 5-0.

Perry: *Do we wish to take this up tonight?*

Councilman Garriss said he was ready to **make a motion to deny this application to rezone the property at 223 West Tateway Road from Beach Residential BR-1 to Beach Residential BR-2. The town council finds this request is inconsistent with the future Land Use Map and the town's adopted Land Use Plan and would create a more irregular zoning boundary and would not be compatible with the development pattern of the surrounding area. Mayor Perry suggested adding to the motion there is a potential to create issues if zoned more than a single residence. Council concurred with the addition. Councilman Pruitt seconded the motion and it passed unanimously, 5-0.**

10. Planning

a.) Call for Public Hearing. Text Amendment: Application to amend the Kitty Hawk Town Code with the addition of Section 42-528 establishing standards for the development of solar energy systems. A public hearing is requested to be scheduled for the August 4, 2014 Town Council meeting.

Mayor Perry asked what prompted this and Planning Director Heard responded it is a staff generated request. This is an up and coming issue for communities particularly in eastern North Carolina. Staff spoke with the planning board about looking at being pro-active in establishing some standards that fit what Kitty Hawk might want to see in the future rather responding to a request from an applicant. It may be appropriate for the planning board and town council to study the issue thoroughly and think about what might work best for Kitty Hawk.

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MPT Bateman made a motion to hold a public hearing on August 4, 2014 for the addition of Section 42-528 establishing standards for the development of solar energy systems. Councilman Garriss seconded the motion and it passed unanimously, 5-0.

11. New Business

a.) Resolution for Consent to Assignment and Change of Control – The town was notified that Charter Communications will become CCO Transfers, LLC, a subsidiary of Comcast Corporation. This resolution consents to the agreement between Comcast and Charter which allows Comcast to be the new Franchisee for the Town of Kitty Hawk.

MPT Bateman made a motion to adopt the Resolution for Consent to Assignment to Change Control for Charter Communications and Comcast. Councilwoman Klutz seconded.

Klutz: In reading the letter from Charter it said if you do not think you have to approve this merger you do not have to do anything. Why do we have to approve this?

Michael: Because the franchise ordinance Section 41-326 says you have to. They cannot do it unless you approve it.

Klutz: That is a good reason. And then there was an inconsistency between what it said in Charter's letter which said they were still remaining entirely under the ownership and control of Charter but in the resolution it says that Comcast is in control.

Michael: This is a complicated transaction. Comcast is going to be the parent company of what you are going to have here. They are taking over some of Charter's sections and Charter is going to end up with some of Comcast's. Time Warner is involved in this deal as well. I do not know why they have structured it the way they have. I am sure there are some tax advantages but Comcast will be who you will be dealing with in the future as opposed to Charter.

Klutz: Have the regulatory agencies, the ones whose approval really means something approved it?

Michael: I guess they have approved it at this point but it is contingent on getting all the other approvals as well.

Perry: What would happen if we did not approve it?

Michael: I suspect it could happen anyway because your ordinance also prohibits you from unreasonably withholding your consent. The only reason you could withhold it is if you decided

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Comcast was not qualified to operate the system and since they are the biggest cable system in the country they are probably qualified.

Mayor Perry called for a vote and it was 5-0 to adopt the resolution.

b.) Resolution Authorizing the Town of Kitty Hawk to Enter into a Contract with the N.C. Department of Environment and Natural Resources Regarding a Public Beach and Coastal Waterfront Access Grant for Expansion of the Lillian Street Beach Access Parking Area.

Manager Stockton reported Albemarle and Associates prepared a conceptual plan for the expansion of the existing parking area at the Lillian Street Beach Access. The project will include 16 parking spaces and related stormwater management improvements. Total cost of the project is estimated to be \$70,588. The town has been awarded a public beach and coastal waterfront access grant from NCDENR in the amount of \$52,941 which is 75% of the cost. The town has agreed to match 25% of the project cost which amounts to \$17,647 and staff plans to apply for a grant from Dare County Tourism Board that will fund the required match. Adoption of this resolution is required by NCDNER in order for the town to enter into a binding contract.

Councilman Pruitt made a motion to adopt the Resolution Authorizing the Town of Kitty Hawk to Enter into a Contract with the North Carolina Department of Environmental and Natural Resources for a Public Beach and Coastal Water Access Grant to Construct an Expansion of the Lillian Street Beach Parking Access Area. The resolution authorizes the town manager to sign and execute the grant and contract on behalf of the town. MPT Bateman seconded and it passed unanimously, 5-0.

c.) Waiver of Building Permit Fees for Damage Associated with Hurricane Arthur

Councilwoman Klutz made a motion to waive permit fees associated with Hurricane Arthur damage from July 7, 2014 through January 7, 2015. This fee waiver is only intended to apply to repairs associated with damage from Hurricane Arthur and it is not intended to apply to other construction repairs and improvements. Councilman Garriss seconded the motion. Vote was unanimous, 5-0.

12. Reports or General Comments from Town Manager

a.) Storm Damage Reduction Status Report – Manager Stockton reported Coastal Planning and Engineering has completed 13.9% of their scope of work thus far and the most recent billing reflects their efforts associated with the environmental documentation, the beach profiles surveys, the calibration of the S BEACH model in preparation for the vulnerability analysis, the collection of native beach samples and coordination of the off shore sand search. As a result of the work done by CP&E it was determined that sufficient design for the project had not been completed to ascertain the limits of easements for the individual oceanfront properties. Staff

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expects to have a more definitive design from CP&E in the near future that will allow work to continue on the required easements. In addition, it has been requested that CP&E provide updated costs on the project to help evaluate the effects of establishing the Municipal Service Districts. The construction costs are an imperative element in the continuation of the project.

b.) Hurricane Arthur Report and Storm Debris Pick Up - Manager Stockton thanked staff for the excellent work they did before, during and after the hurricane on July 4th. The town was very fortunate not to have overwash or sound side flooding. The damage assessment revealed minor damage and included siding missing from 18 residences, roof shingle damage on 3 residences, electrical damage to 5 residences, damage to steps on 1 residence and minor damage to 1 commercial sign.

Public works has arranged for debris pick up to begin the week of July 14th and asked that debris be placed out by July 12th.

Mayor Perry noted how amazing it is that the total damage assessment from a category II hurricane was only \$20,000.

c.) Ocean Rescue Compliment – Manager Stockton said Marissa Spangler from Minnesota was very complimentary about how Justin Reindel and Cole Yeatts of Ocean Rescue handled rescuing her son who had drifted out very far in the ocean.

13. Reports or General Comments from Town Attorney

There were no further comments or reports.

14. Reports or General Comments from Town Council

a.) Thank You to Staff - Councilmembers thanked staff for their hard work in dealing with the storm events.

Mayor Perry added citizens doing their part make it much easier for staff and elected officials to do their part. He appreciated getting the early morning assessment reports from the police and fire departments. The elected officials had to be ready to respond when the news media telephoned for updates.

b.) Update on the Overton Property – Mayor Perry reported he has been in contact with the lawyer handling the Overton property. He expressed to him something needs to be done quickly. It is in the middle of legal maneuvering because Mr. Overton died intestate and having no will creates all kinds of legal problems. It is not feasible for the family to clean it up because the labor costs are too much and those sorts of things. The lawyer has been unable to contact relatives that

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want to talk to him and it may be because they are worried about being stuck with bills or outstanding taxes. They are going to do a 30 day notice and then try to sell the property. They know someone who wants to buy it, tear it down, clean it up and probably build something on it. He offered that he would ask the manager to have public works tear it down but has not heard back. Mayor Perry said he would talk with the lawyer again soon.

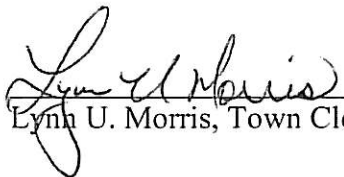
15. Public Comment

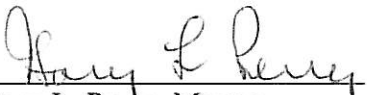
There were no further public comments.

16. Adjourn

Councilwoman Klutz made a motion to adjourn. MPT Bateman seconded the motion and it passed unanimously. Time was 8:08 p.m.

These minutes were approved at the August 4, 2014 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor